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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/655,054	09/05/2000	John L. Shannon JR.	122.1.1/USA	7269

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EXAMINER

HUNTER, ALVIN A

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 02/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/655,054

Applicant(s)

SHANNON, JOHN L.

Examiner

Alvin A. Hunter

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-8, 10-14 and 20-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8, 10-14 and 20-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-4, 6-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheney (USPN 4976432) in view of Desmond et al. (USPN 4718671) and OFFICAL NOTICE.

Cheney discloses a sectional and height adjustable singles stick, in which sections are combined in order to achieve the desired height for holding up a tennis net (See Abstract). The sections are connected by inserting the dowel end of a section into the hollow bottom end of another section (See Column 7, lines 50 through 68; and Column 8, lines 1 through 37). It also suggests that the dowels (22) may be constructed of any suitable material, shape, and size (See Column 7, lines 33 through 67). Clearly, Cheney accomplishes that of the telescoping feature within the present application and would be merely an equivalent means for making the device portable (See MPEP 2144.04 Section V). If in doubt, Desmond discloses a telescoping cue stick with a locking mechanism to keep the telescoping sections from during use, which the central section (102) is telescopically received within the butt section (101) (See Abstract). Desmond et al. accomplishes making the cue stick portable and adjustable for transportation, storage, and to accommodate various users (See Background of the

Invention). Cheney does not have any support and still accomplishes that of the present invention, which is to hold a tennis net at a desired height; therefore, it would appear that a base is not critical for the invention to accomplish its goal.

OFFICIAL NOTICE is taken that a telescoping device would need some sort of locking system, such as a spring-biased push pin or pull pin and slot system, screw and slot system, etc. Examples of devices that uses such systems are adjustable crutches, seats used for exercise devices, etc.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use any sort of locking system to for a telescoping unit in order to hold the unit in the desired position and preventing it from collapsing during its use.

2. Claims 11-14 and 20-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheney (USPN 4976432) in view of Desmond et al. (USPN 4718671), Stearns (USPN 6152859), and OFFICIAL NOTICE.

Cheney discloses a sectional and height adjustable singles stick, in which sections are combined in order to achieve the desired height for holding up a tennis net (See Abstract). The sections are connected by inserting the dowel end of a section into the hollow bottom end of another section (See Column 7, lines 50 through 68; and Column 8, lines 1 through 37). It also suggests that the dowels (22) may be constructed of any suitable material, shape, and size (See Column 7, lines 33 through 67). Clearly, Cheney accomplishes that of the telescoping feature within the present application and would be merely an equivalent means for making the device portable (See MPEP 2144.04 Section V). If in doubt, Desmond discloses a telescoping cue stick with a

locking mechanism to keep the telescoping sections from during use, which the central section (102) is telescopically received within the butt section (101) (See Abstract).

Desmond et al. accomplishes making the cue stick portable and adjustable for transportation, storage, and to accommodate various users (See Background of the Invention). Cheney does not have any support and still accomplishes that of the present invention, which is to hold a tennis net at a desired height; therefore, it would appear that a base is not critical for the invention to accomplish its goal. Stearns discloses an exercise apparatus, which has a spring loaded pin (136) engaging a plurality of holes for locking a frame member (110) within a desired position along the post (120) (See Column 5, lines 38 through 56). The frame and post are oriented in a vertical position and, therefore, teaches the purpose for using a system of such. Stearns also notes that any other suitable locking systems may be used; therefore, one having ordinary skill in the art would consider a spring finger as of that disclosed by the applicant as being a substitution for locking two elements together.

OFFICIAL NOTICE is taken that a majority of spring are made of metallic material and that the stiffness of the material depends on the force required for the application that it is being applied to (Hooke's Law). One having ordinary skill in the art would see the use of a flexible metallic material being nothing more than a design choice.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use any sort of locking system to for a telescoping unit in order to hold the unit in the desired position and preventing it from collapsing

during its use. It also would have been obvious to have a metallic biasing material as a mere design choice for the purpose of biasing the locking pin back into position when it lines up within the desired slot.

Response to Arguments


Applicant's arguments with respect to claims 1-8, 10-14, and 20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin A. Hunter whose telephone number is 703-306-5693. The examiner can normally be reached on Monday through Friday from 7:30AM to 4:00PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell, can be reached on (703) 308-2126. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.


Paul T. Sewell
Supervisory Patent Examiner
Group 3700